

# SENATE BILL REPORT

## SB 5540

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As of February 7, 2005

**Title:** An act relating to extortionate extension of credit.

**Brief Description:** Expanding extortionate extension of credit.

**Sponsors:** Senators Fairley and Kline.

**Brief History:**

**Committee Activity:** Financial Institutions, Housing & Consumer Protection: 2/8/05.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

**Staff:** Joanne Conrad (786-7472)

**Background:** The federal government, using the RICO Act (Racketeer Influenced and Corrupt Organizations Act of 1970), and Washington State, using the state's "Little RICO" criminal profiteering statute (RCW 9A.82), are able to prosecute various organized criminal activities, and utilize special remedies. One of the existing crimes that can be prosecuted under the state act is "extortionate" lending.

RICO prosecution provides special legal remedies:

- damages, costs and reasonable investigative and attorney's fees;
- an action by the Attorney General (AG) to restrain criminal activity;
- imposition of civil penalties of up to \$250,000;
- attachment, receivership and injunctive relief;
- divestment orders;
- restriction on future activities and business;
- dissolution or reorganization of a business;
- payment of actual damages to injured parties, and discretionary treble damages;
- payment of all costs and expenses of prosecution and investigation, including public expense from the state general fund;
- forfeiture of property, including proceeds of the crime;
- payment into the state general fund, or county antiprofitteering revolving fund, of amount gained by the criminal enterprise; and
- private civil actions in addition to civil or criminal action taken by the AG.

Concern exists that some payday lending crosses the line from legitimate business into predatory lending. Predatory payday lending consists of repeated violations, affecting multiple victims.

**Summary of Bill:** For purposes of prosecution under the state criminal profiteering act, predatory payday lending constitutes an "extortionate extension of credit." Actions that fall

into this category include loans made by licensees or unlicensed persons in violation of the "Military Best Practices" Act, or loans made as part of a "pattern of violations " of the payday lending statutes. A "pattern of violations" means 10 or more of the same type of violation, or 10 or more victims, within one year.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.